

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

JOSEPH BOSWELL,)	
)	
Plaintiff,)	
)	No. 2:14-cv-00018
v.)	
)	Judge Sharp
W.B. MELTON, et al.)	Magistrate Judge Bryant
)	
Defendants.)	

ORDER

Plaintiff Joseph Boswell, an inmate at Overton County Jail (OCJ) proceeding pro se, has filed a civil rights complaint pursuant to 42 U.S.C. § 1983. He alleges that the food is nutritionally inadequate, that raw sewage can be seen running down the walls, that there is mold and rust everywhere, that the facility is not handicapped accessible, and that the ventilation is poor.

Magistrate Judge Bryant has issued a Report and Recommendation (“R & R”) (Docket No. 25) in which he recommends that Defendants’ Motion for Summary Judgment (Docket No. 20) be granted and this case dismissed. Judge Bryant also recommends that dismissal count as a strike under 28 U.S.C. § 1915(g); that this be considered the final judgment in this case; and that any appeal NOT be certified as taken in good faith under 28 U.S.C. § 1915(a)(3). Despite being advised that any objection needed to be filed within fourteen days, plaintiff has filed none.

Having considered the matter de novo as required by Rule 72 of the Federal Rules of Civil Procedure, the Court agrees with the recommended disposition except that the Court declines to count the dismissal as a strike under 28 U.S.C. § 1915(g).

Accordingly, the Court hereby rules as follows:

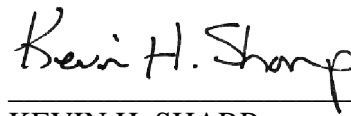
(1) The Report and Recommendation is hereby ADOPTED and MODIFIED such that it reflects the Court's declination to count this dismissal as a strike under 28 U.S.C. § 1915(g).

(2) Defendants' Motion for Summary Judgment (Docket No. 20) is hereby GRANTED; and this case is hereby DISMISSED WITH PREJUDICE.

(3) The Court hereby certifies that any appeal would not be taken in good faith. See 28 U.S.C. § 1915(a)(3).

The Clerk of the Court shall enter a final judgment in accordance with Rule 58 of the Federal Rules of Civil Procedure.

It is SO ORDERED.

A handwritten signature in black ink that reads "Kevin H. Sharp". The signature is written in a cursive, slightly stylized font. Below the signature is a horizontal line.

KEVIN H. SHARP
UNITED STATES DISTRICT JUDGE